

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

1) VIDEO GAMING TECHNOLOGIES, INC.,	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:17-cv-00454-GKF-jfj
	)	
1) CASTLE HILL STUDIOS LLC	)	<b>REDACTED</b>
(d/b/a CASTLE HILL GAMING);	)	
2) CASTLE HILL HOLDING LLC	)	
(d/b/a CASTLE HILL GAMING); and	)	
3) IRONWORKS DEVELOPMENT, LLC	)	
(d/b/a CASTLE HILL GAMING)	)	
	)	
Defendants.	)	

**PLAINTIFF’S SUPPLEMENTAL BRIEF IN SUPPORT OF  
ITS MOTION FOR LEAVE TO FILE AMENDED COMPLAINT**

Plaintiff Video Gaming Technologies, Inc. (“VGT”) submits this supplemental brief to advise the Court of recently discovered evidence related to the briefing on VGT’s motion for leave to file an amended complaint (Dkt. No. 73).

In opposing VGT’s motion and in an attempt to suggest that VGT’s claims of trade secret misappropriation lack merit, Defendants repeatedly asserted that they did not misappropriate any of VGT’s source code. *See* Dkt. No. 79 at 1–4. Although VGT’s claims of trade secret misappropriation are not (and have never been) limited to source code, but rather include other trade secrets, such as [REDACTED] that Defendants misappropriated (*see* Dkt. No. 87 at 1–2, 6–7), recently produced documents confirm that Defendants’ employees did, in fact, take source code from VGT.

In a recently produced text conversation between former VGT engineers who are now employed by Defendants, one engineer wrote: [REDACTED]

[REDACTED] Decl. of Michael S. Sawyer in Support of Pl.'s Suppl. Br. ("Sawyer Decl."), Ex. T, at CHG0124581. The other engineer responded, [REDACTED] *Id.* [REDACTED]

[REDACTED].) Although that engineer said that [REDACTED] to VGT, *id.*, he also repeatedly suggested using [REDACTED]. *See* Sawyer Decl. Ex. U, at CHG0126287 [REDACTED]"); Sawyer Decl., Ex. V, at CHG0126311 [REDACTED].

While VGT is continuing to investigate the matter, this recently discovered evidence raises questions about the statements made in Defendants' opposition brief, as well as in Defendants' discovery responses. VGT has sought additional discovery from Defendants, including documents and code (which VGT has not yet received) and the depositions of the two engineers (which are scheduled for July 10 and 13), in order to ascertain all of the facts. VGT, however, wanted to promptly apprise the Court of this development so that the Court has a complete record when considering VGT's motion for leave to amend.

Dated: July 10, 2018

Respectfully submitted,

/s/ Gary M. Rubman

Graydon Dean Luthey, Jr., OBA No. 5568  
GABLE GOTWALS  
1100 ONEOK Plaza  
100 West Fifth Street  
Tulsa, OK 74103-4217  
Telephone: (918) 595-4821  
Facsimile: (918) 595-4990  
dluthey@gablelaw.com

Gary M. Rubman  
Peter A. Swanson  
Michael S. Sawyer  
Rebecca B. Dalton  
COVINGTON & BURLING LLP  
One CityCenter  
850 Tenth Street, NW  
Washington, D.C. 20001-4956  
Telephone: (202) 662-6000  
Facsimile: (202) 778-5465  
grubman@cov.com  
pswanson@cov.com  
msawyer@cov.com  
rdalton@cov.com  
(admitted pro hac vice)

Neil K. Roman  
COVINGTON & BURLING LLP  
The New York Times Building  
620 Eighth Avenue  
New York, NY 10018-1405  
Telephone: (212) 841-1221  
Facsimile: (212) 841-1010  
nroman@cov.com  
(admitted pro hac vice)

***Counsel for Video Gaming Technologies, Inc.***

**CERTIFICATE OF SERVICE**

I hereby certify that on July 10, 2018, I filed the foregoing via CM/ECF, which caused the foregoing to be served on the following counsel for Defendants:

Robert C. Gill  
Thomas S. Schaufelberger  
Matthew J. Antonelli  
SAUL EWING ARNSTEIN & LEHR, LLP  
1919 Pennsylvania Avenue, NW, Suite 550  
Washington, D.C. 20006  
(202) 295-6605  
(202) 295-6705 (facsimile)  
robert.gill@saul.com  
tschauf@saul.com  
matt.antonelli@saul.com

Sherry H. Flax  
SAUL EWING ARNSTEIN & LEHR, LLP  
500 E. Pratt Street, Suite 900  
Baltimore, Maryland 21202  
(410) 332-8764  
(410) 332-8785 (facsimile)  
sherry.flax@saul.com

James C. Hodges, OBA 4254  
JAMES C. HODGES, PC  
2622 East 21st Street, Suite 4  
Tulsa, OK 74114  
Telephone: (918) 779-7078  
JHodges@HodgesLC.Com

Duane H. Zobrist  
Jonathan S. Jacobs  
ZOBRIST LAW GROUP PLLC  
1900 Arlington Blvd. Suite B  
Charlottesville, VA 22903  
Telephone: (434) 658-6400  
dzobrist@zoblaw.com  
jjacobs@zoblaw.com

*Attorneys for Defendants*

/s/ Gary M. Rubman